

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PHILLIP JEAN-LAURENT,

Plaintiff

v.

DECISION AND ORDER
12-CV-132S(F)

C.O. R. LOS and C.O. J. DAMSTETTER,

Defendants.

1. This Court previously referred the matter to the Honorable Leslie G. Foschio, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B) and (C) to prepare and file a report and recommendation containing findings of fact, conclusions of law and a recommended disposition on any dispositive motion. On June 5, 2014, Defendants filed a motion for summary judgment dismissing Plaintiff's complaint for relief pursuant to 42 U.S.C. § 1983 in its entirety. Despite the scheduling order and the express warning in Defendants' notice of motion that failure to respond could result in dismissal of his complaint, Plaintiff failed to file any opposition to Defendants' motion.

2. On December 2, 2014, Judge Foschio filed a Report and Recommendation finding that Defendants had established their entitlement to summary judgment and recommending that the motion be granted in its entirety. This Court then accepted Plaintiff's untimely-filed objections to the Report and Recommendation on January 14, 2015. Plaintiff objects therein to the Magistrate Judge's conclusions that: (1) precluding Plaintiff from attending both the law library and Ramadan services during the same evening call-out did not impose a substantial burden on his ability to freely exercise his religion; and (2) the enforcement of the correctional facility's Movement Policy was reasonably related to a legitimate penological interest. (Docket No. 47.)

3. Because Plaintiff failed to raise these arguments before the Magistrate Judge, the Report and Recommendation is reviewed under a clear error rather than *de novo* standard. See Reiseck v. Universal Comm'ns of Miami, No. 06 Civ. 0777(LGS), 2014 WL 5364081, *1 (S.D.N.Y. Oct. 22, 2014); see also Patterson-Leitch Co. v. Massachusetts Municipal Wholesale Electric Co., 840 F.2d 985, 990-91 (1st Cir. 1988). This Court finds no clear error in the Magistrate Judge's analysis and conclusions, and therefore accepts the Report and Recommendation in its entirety.

IT HEREBY IS ORDERED, that this Court ACCEPTS Judge Foschio's December 2, 2014 Report and Recommendation (Docket No. 45) in its entirety;

FURTHER, that Plaintiff's Objections (Docket No. 47) are DENIED.

FURTHER, that Defendants' motion for summary judgment dismissing the complaint (Docket No. 41) is GRANTED and the complaint is dismissed;

FURTHER, that the Clerk of the Court shall close this case.

SO ORDERED.

Dated: March 8, 2015
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court